

ASSEMBLY BILL

No. 362

Introduced by Assembly Member Eggman
(Principal coauthor: Senator Wiener)
(Coauthor: Assembly Member Friedman)

February 4, 2019

An act to add and repeal Section 11376.6 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 362, as introduced, Eggman. Controlled substances: overdose prevention program.

Existing law makes it a crime to possess specified controlled substances or paraphernalia. Existing law makes it a crime to use or be under the influence of specified controlled substances. Existing law additionally makes it a crime to visit or be in any room where specified controlled substances are being unlawfully used with knowledge that the activity is occurring, or to open or maintain a place for the purpose of giving away or using specified controlled substances. Existing law makes it a crime for a person to rent, lease, or make available for use any building or room for the purpose of storing or distributing any controlled substance. Existing law authorizes forfeiture of property used for specified crimes involving controlled substances.

This bill would, until January 1, 2026, authorize the City and County of San Francisco to approve entities to operate overdose prevention programs that satisfy specified requirements, including, among other things, the provision of a hygienic space supervised by healthcare professionals, as defined, where adults who use drugs can consume preobtained drugs, sterile consumption supplies, and access to referrals

to substance use disorder treatment. The bill would require the City and County of San Francisco, prior to authorizing an overdose prevention program in its jurisdiction, to provide local law enforcement officials, local public health officials, and the public with an opportunity to comment in a public meeting. The bill would require any entity operating a program to provide an annual report to the city and county, as specified. The bill would exempt a person from, among other things, civil liability, professional discipline, or existing criminal sanctions, solely for actions or conduct on the site of an overdose prevention program for adults authorized by the city and county.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11376.6 is added to the Health and Safety
2 Code, to read:
3 11376.6. (a) Notwithstanding any other law, the City and
4 County of San Francisco may approve entities within their
5 jurisdiction to establish and operate overdose prevention programs
6 for persons 18 years of age or older that satisfy the requirements
7 set forth in subdivision (c).
8 (b) Prior to approving an entity within their jurisdiction pursuant
9 to subdivision (a), the City and County of San Francisco shall
10 provide local law enforcement officials, local public health
11 officials, and the public with an opportunity to comment in a public
12 meeting. The notice of the meeting to the public shall be sufficient
13 to ensure adequate participation in the meeting by the public. The
14 meeting shall be noticed in accordance with all state laws and local
15 ordinances, and as local officials deem appropriate.
16 (c) In order for an entity to be approved to operate an overdose
17 prevention program pursuant to this section, the entity shall
18 demonstrate that it will, at a minimum:
19 (1) Provide a hygienic space supervised by healthcare
20 professionals where people who use drugs can consume
21 preobtained drugs. For purposes of this paragraph, “healthcare
22 professional” includes, but is not limited to, a physician, physician
23 assistant, nurse practitioner, licensed vocational nurse, registered

1 nurse, psychiatrist, psychologist, licensed clinical social worker,
2 licensed professional clinical counselor, mental health provider,
3 social service provider, or substance use disorder provider, trained
4 in overdose recognition and reversal pursuant to Section 1714.22
5 of the Civil Code.

6 (2) Provide sterile consumption supplies, collect used
7 hypodermic needles and syringes, and provide secure hypodermic
8 needle and syringe disposal services.

9 (3) Administer first aid, if needed, monitor participants for
10 potential overdose, and provide treatment as necessary to prevent
11 fatal overdose.

12 (4) Provide access or referrals to substance use disorder
13 treatment services, medical services, mental health services, and
14 social services.

15 (5) Educate participants on the risks of contracting HIV and
16 viral hepatitis.

17 (6) Provide overdose prevention education and access to or
18 referrals to obtain naloxone hydrochloride or another overdose
19 reversal medication approved by the United States Food and Drug
20 Administration.

21 (7) Educate participants regarding proper disposal of hypodermic
22 needles and syringes.

23 (8) Provide reasonable security of the program site.

24 (9) Establish operating procedures for the program, made
25 available to the public either through an internet website or upon
26 request, that are publicly noticed, including, but not limited to,
27 standard hours of operation, a minimum number of personnel
28 required to be onsite during those hours of operation, the licensing
29 and training standards for staff present, an established maximum
30 number of individuals who can be served at one time, and an
31 established relationship with the nearest emergency department
32 of a general acute care hospital, as well as eligibility criteria for
33 program participants.

34 (10) Train staff members to deliver services offered by the
35 program.

36 (11) Establish a good neighbor policy that facilitates
37 communication from and to local businesses and residences, to
38 the extent they exist, to address any neighborhood concerns and
39 complaints.

1 (12) Establish a policy for informing local government officials
2 and neighbors about the approved entity's complaint procedures,
3 and the contact number of the director, manager, or operator of
4 the approved entity.

5 (d) An entity operating an overdose prevention program under
6 this section shall provide an annual report to the city and county,
7 that shall include:

8 (1) The number of program participants.

9 (2) Aggregate information regarding the characteristics of
10 program participants.

11 (3) The number of hypodermic needles and syringes distributed
12 for use onsite.

13 (4) The number of overdoses experienced and the number of
14 overdoses reversed onsite.

15 (5) The number of persons referred to drug treatment.

16 (6) The number of individuals directly and formally referred to
17 other services and the type of service.

18 (e) Notwithstanding any other law, a person or entity, including,
19 but not limited to, property owners, managers, employees,
20 volunteers, and clients or participants, shall not be arrested,
21 charged, or prosecuted pursuant to Section 11350, 11364, 11365,
22 11366, 11366.5, or 11377, or subdivision (a) of Section 11550,
23 including for attempt, aiding and abetting, or conspiracy to commit
24 a violation of any of those sections, or have their property subject
25 to forfeiture, or otherwise be penalized solely for actions or conduct
26 on the site of an overdose prevention program approved by the
27 City and County of San Francisco pursuant to subdivision (a).

28 (f) Notwithstanding any other law, a person or entity, including,
29 but not limited to, property owners, managers, employees,
30 volunteers, and clients or participants shall not be subject to civil,
31 administrative, disciplinary, employment, credentialing,
32 professional discipline, contractual liability, or medical staff action,
33 sanction, or penalty or other liability solely for actions or conduct
34 on the site of an overdose prevention program approved by the
35 City and County of San Francisco pursuant to subdivision (a).

36 (g) This section shall remain in effect only until January 1, 2026,
37 and as of that date is repealed.

38 SEC. 2. The Legislature finds and declares that a special statute
39 is necessary and that a general statute cannot be made applicable
40 within the meaning of Section 16 of Article IV of the California

- 1 Constitution because of the unique needs of the City and County
- 2 of San Francisco.

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